

## § 1.430(i)-1

## 26 CFR Ch. I (4-1-10 Edition)

(E) The date specified in guidance published in the Internal Revenue Bulletin (see §601.601(d)(2)(ii)(b) of this chapter) pursuant to a replacement of mortality tables specified under section 430(h)(3)(A) and §1.430(h)(3)-1 (other than annual updates to the static mortality tables issued pursuant to §1.430(h)(3)-1(a)(3)).

(ii) *Significant change in coverage*—(A) *Change in coverage from time of experience study.* For purposes of applying the rules of paragraph (d)(4)(i)(C) of this section, a significant change in the individuals covered by a substitute mortality table occurs if there is an increase or decrease in the number of individuals of at least 20 percent compared to the average number of individuals in that population over the years covered by the experience study on which the substitute mortality tables are based. However, a change in coverage is not treated as significant if the plan's actuary certifies in writing to the satisfaction of the Commissioner that the substitute mortality tables used for the plan population continue to be accurately predictive of future mortality of that population (taking into account the effect of the change in the population).

(B) *Change in coverage from time of certification.* For purposes of applying the rules of paragraph (d)(4)(i)(C) of this section, a significant change in the individuals covered by a substitute mortality table occurs if there is an increase or decrease in the number of individuals covered by a substitute mortality table of at least 20 percent compared to the number of individuals in a plan year for which a certification described in paragraph (d)(4)(ii)(A) of this section was made on account of a prior change in coverage. However, a change in coverage is not treated as significant if the plan's actuary certifies in writing to the satisfaction of the Commissioner that the substitute mortality tables used by the plan with respect to the covered population continue to be accurately predictive of future mortality of that population (taking into account the effect of the change in the plan population).

(e) *Effective/Applicability date.* This section applies for plan years beginning on or after January 1, 2009.

[T.D. 9419, 73 FR 44644, July 31, 2008]

### § 1.430(i)-1 Special rules for plans in at-risk status.

(a) *In general*—(1) *Overview.* This section provides special rules related to determining the funding target and making other computations for certain defined benefit plans that are in at-risk status for the plan year. Section 430(i) and this section apply to single employer defined benefit plans (including multiple employer plans) but do not apply to multiemployer plans (as defined in section 414(f)). Paragraph (b) of this section describes rules for determining whether a plan is in at-risk status for a plan year, including the determination of a plan's funding target attainment percentage and at-risk funding target attainment percentage. Paragraph (c) of this section describes the funding target for a plan in at-risk status. Paragraph (d) of this section describes the target normal cost for a plan in at-risk status. Paragraph (e) of this section describes rules regarding how the funding target and the target normal cost are determined for a plan that has been in at-risk status for fewer than 5 consecutive plan years. Paragraph (f) of this section sets forth effective/applicability dates and transition rules.

(2) *Special rules for multiple employer plans.* In the case of a multiple employer plan to which section 413(c)(4)(A) applies, the rules of section 430 and this section are applied separately for each employer under the plan, as if each employer maintained a separate plan. For example, at-risk status is determined separately for each employer under such a multiple employer plan. In the case of a multiple employer plan to which section 413(c)(4)(A) does not apply (that is, a plan described in section 413(c)(4)(B) that has not made the election for section 413(c)(4)(A) to apply), the rules of section 430 and this section are applied as if all participants in the plan were employed by a single employer.

(b) *Determination of at-risk status of a plan*—(1) *General rule.* Except as otherwise provided in this section, a plan is in at-risk status for a plan year if—

(i) The funding target attainment percentage for the preceding plan year (determined under paragraph (b)(3) of this section) is less than 80 percent; and

(ii) The at-risk funding target attainment percentage for the preceding plan year (determined under paragraph (b)(4) of this section) is less than 70 percent.

(2) *Small plan exception.* If, on each day during the preceding plan year, a plan had 500 or fewer participants (including both active and inactive participants), determined in accordance with the same rules that apply for purposes of § 1.430(g)-1(b)(2)(ii), then the plan is not treated as being in at-risk status for the plan year.

(3) *Funding target attainment percentage.* For purposes of this section, except as otherwise provided in paragraph (b)(5) of this section, the funding target attainment percentage of a plan for a plan year is the funding target attainment percentage as defined in § 1.430(d)-1(b)(3).

(4) *At-risk funding target attainment percentage.* Except as otherwise provided in paragraph (b)(5) of this section, the at-risk funding target attainment percentage of a plan for a plan year is a fraction (expressed as a percentage)—

(i) The numerator of which is the value of plan assets for the plan year after subtraction of the prefunding balance and the funding standard carry-over balance under section 430(f)(4)(B); and

(ii) The denominator of which is the at-risk funding target of the plan for the plan year (determined under paragraph (c) of this section, but without regard to the loading factor imposed under paragraph (c)(2)(ii) of this section).

(5) *Special rules*—(i) *Special rule for new plans.* Except as otherwise provided in paragraph (b)(5)(iii) of this section, in the case of a new plan that was neither the result of a merger nor involved in a spinoff, the funding target attainment percentage under paragraph (b)(3) of this section and the at-

risk funding target attainment percentage under paragraph (b)(4) of this section are equal to 100 percent for years before the plan exists.

(ii) *Special rule for plans with zero funding target.* Except as otherwise provided in paragraph (b)(5)(iii) of this section, if the funding target of the plan is equal to zero for a plan year, then the funding target attainment percentage under paragraph (b)(3) of this section and the at-risk funding target attainment percentage under paragraph (b)(4) of this section are equal to 100 percent for that plan year.

(iii) *Exception when plan has predecessor plan that was in at-risk status.* [Reserved]

(iv) *Special rules for plans that are the result of a merger.* [Reserved]

(v) *Special rules for plans that are involved in a spinoff.* [Reserved]

(6) *Special rule for determining at-risk status of plans of specified automobile manufacturers.* See section 430(i)(4)(C) for special rules for determining the at-risk status of plans of specified automobile and automobile parts manufacturers.

(c) *Funding target for plans in at-risk status*—(1) *In general.* If the plan has been in at-risk status for 5 consecutive years, including the current plan year, then the funding target for the plan is the at-risk funding target determined under paragraph (c)(2) of this section. See paragraph (e) of this section for the determination of the funding target where the plan is in at-risk status for the plan year but was not in at-risk status for one or more of the 4 preceding plan years.

(2) *At-risk funding target*—(i) *Use of modified actuarial assumptions.* Except as otherwise provided in this paragraph (c)(2), the at-risk funding target of the plan under this paragraph (c)(2) for the plan year is equal to the present value of all benefits accrued or earned under the plan as of the beginning of the plan year, as determined in accordance with § 1.430(d)-1 but using the additional actuarial assumptions described in paragraph (c)(3) of this section.

(ii) *Funding target includes load.* The at-risk funding target is increased by the sum of—

**§ 1.430(i)-1**

**26 CFR Ch. I (4-1-10 Edition)**

(A) \$700 multiplied by the number of participants in the plan (including active participants, inactive participants, and beneficiaries); plus

(B) Four percent of the funding target (determined under § 1.430(d)-1(b)(2) as if the plan was not in at-risk status) of the plan for the plan year.

(iii) *Minimum amount.* Notwithstanding any otherwise applicable provisions of this section, the at-risk funding target of a plan for a plan year is not less than the plan's funding target for the plan year determined without regard to this section.

(3) *Additional actuarial assumptions—*(i) *In general.* The actuarial assumptions used to determine a plan's at-risk funding target for a plan year are the actuarial assumptions that are applied under section 430, with the modifications described in this paragraph (c)(3).

(ii) *Special retirement age assumption—*(A) *Participants eligible to retire and collect benefits within 11 years.* Subject to paragraph (c)(3)(ii)(B) of this section, if a participant would be eligible to commence an immediate distribution by the end of the 10th plan year after the current plan year (that is, the end of the 11th plan year beginning with the current plan year), that participant is assumed to commence an immediate distribution at the earliest retirement age under the plan, or, if later, at the end of the current plan year. The rule of this paragraph (c)(3)(ii)(A) does not affect the application of plan assumptions regarding an employee's termination of employment prior to the employee's earliest retirement age.

(B) *Participants otherwise assumed to retire immediately.* The special retirement age assumption of paragraph (c)(3)(ii)(A) of this section does not apply to a participant to the extent the participant is otherwise assumed to commence benefits during the current plan year under the actuarial assumptions for the plan. For example, if generally applicable retirement assumptions would provide for a 25 percent probability that a participant will commence benefits during the current plan year, the special retirement age assumption of paragraph (c)(3)(ii)(A) of this section requires the plan's enrolled actuary to assume a 75 percent probability that the participant will com-

mence benefits at the end of the plan year.

(C) *Definition of earliest retirement date.* For purposes of this paragraph (c)(3)(ii), a plan's earliest retirement date for an employee is the earliest date on which the employee can commence receiving an immediate distribution of a fully vested benefit under the plan. See § 1.401(a)-20, Q&A-17(b).

(iii) *Requirement to assume most valuable benefit.* All participants and beneficiaries who are assumed to retire on a particular date are assumed to elect the optional form of benefit available under the plan that would result in the highest present value of benefits commencing at that date.

(iv) *Reasonable techniques permitted.* The plan's actuary is permitted to use reasonable techniques in determining the actuarial assumptions that are required to be used pursuant to this paragraph (c)(3). For example, the plan's actuary is permitted to use reasonable assumptions in determining the optional form of benefit under the plan that would result in the highest present value of benefits for this purpose.

(d) *Target normal cost of plans in at-risk status—*(1) *General rule.* If the plan has been in at-risk status for 5 consecutive years, including the current plan year, then the target normal cost for the plan is the at-risk target normal cost determined under paragraph (d)(2) of this section. See paragraph (e) of this section for the determination of the target normal cost where the plan is in at-risk status for the plan year but was not in at-risk status for one or more of the 4 preceding plan years.

(2) *At-risk target normal cost—*(i) *Use of modified actuarial assumptions—*(A) *In general.* Except as otherwise provided in this paragraph (d)(2), the at-risk target normal cost of a plan for the plan year is equal to the present value (determined as of the valuation date) of all benefits that accrue during, are earned during, or are otherwise allocated to service in the plan year, as determined in accordance with § 1.430(d)-1 but using the additional actuarial assumptions described in paragraph (c)(3) of this section.

(B) *Special adjustments.* The target normal cost of the plan for the plan year (determined under paragraph (d)(2)(i)(A) of this section) is adjusted (not below zero) by adding the amount of plan-related expenses expected to be paid from plan assets during the plan year and subtracting the amount of any mandatory employee contributions expected to be made during the plan year.

(C) *Plan-related expenses.* For purposes of this paragraph (d)(2), plan-related expenses are determined using the rules of § 1.430(d)-1(b)(1)(iii)(B).

(ii) *Loading factor.* The at-risk target normal cost is increased by a loading factor equal to 4 percent of the present value (determined as of the valuation date) of all benefits under the plan that accrue, are earned, or are otherwise allocated to service for the plan year under the applicable rules of § 1.430(d)-1(c)(1)(ii)(B), (C), or (D), determined as if the plan were not in at-risk status.

(iii) *Minimum amount.* The at-risk target normal cost of a plan for a plan year is not less than the plan's target normal cost determined without regard to section 430(i) and this section.

(e) *Transition between applicable funding targets and applicable target normal costs—(1) Funding target.* If a plan that is in at-risk status for the plan year has not been in at-risk status for one or more of the preceding 4 plan years, the plan's funding target for the plan year is determined as the sum of—

(i) The funding target determined without regard to section 430(i) and this section; plus

(ii) The phase-in percentage for the plan year multiplied by the excess of—

(A) The at-risk funding target determined under paragraph (c)(2) of this section (determined taking into account paragraph (e)(4) of this section); over

(B) The funding target determined without regard to section 430(i) and this section.

(2) *Target normal cost.* If a plan that is in at-risk status for the plan year has not been in at-risk status for one or more of the preceding 4 plan years, the plan's target normal cost for the plan year is determined as the sum of—

(i) The target normal cost determined without regard to section 430(i) and this section; plus

(ii) The phase-in percentage for the plan year multiplied by the excess of—

(A) The at-risk target normal cost determined under paragraph (d)(2) of this section (determined taking into account paragraph (e)(4) of this section); over

(B) The target normal cost determined without regard to section 430(i) and this section.

(3) *Phase-in percentage.* For purposes of this paragraph (e), the phase-in percentage is 20 percent multiplied by the number of consecutive plan years that the plan has been in at-risk status (including the current plan year) and not taking into account years before the first effective plan year for a plan.

(4) *Transition funding target and target normal cost determined without load.* Notwithstanding paragraph (c)(2)(ii) of this section, if a plan has not been in at-risk status for 2 or more of the preceding 4 plan years (not taking into account years before the first effective plan year for a plan), then the plan's at-risk funding target that is used for purposes of paragraph (e)(1)(ii)(A) of this section (to calculate the plan's funding target where the plan has been in at-risk status for fewer than 5 plan years) is determined without regard to the loading factor set forth in paragraph (c)(2)(ii) of this section. Similarly, if a plan has not been in at-risk status for 2 or more of the preceding 4 plan years (not taking into account years before the first effective plan year for a plan), then the plan's at-risk target normal cost that is used for purposes of paragraph (e)(2)(ii)(A) of this section (to calculate the plan's target normal cost where the plan has been in at-risk status for fewer than 5 plan years) is determined without regard to the loading factor set forth in paragraph (d)(2)(ii) of this section.

(f) *Effective/applicability dates and transition rules—(1) Statutory effective date/applicability date—(i) General rule.* Section 430 generally applies to plan years beginning on or after January 1, 2008. The applicability of section 430 for purposes of determining the minimum required contribution is delayed for

## § 1.431(c)(6)–1

certain plans in accordance with sections 104 through 106 of the Pension Protection Act of 2006 (PPA '06), Public Law 109–280 (120 Stat. 780).

(ii) *Applicability of special adjustments to target normal cost.* The special adjustments of paragraph (d)(2)(i)(B) of this section (relating to adjustments to the target normal cost for plan-related expenses and mandatory employee contributions) apply to plan years beginning after December 31, 2008. In addition, a plan sponsor may elect to make the special adjustments of paragraph (d)(2)(i)(B) of this section for plan years beginning in 2008. This election is made in the same manner and is subject to the same rules as an election to add an amount to the plan's prefunding balance pursuant to § 1.430(f)–1(f). Thus, the election can be made no later than the last day for making the minimum required contribution for the plan year to which the election relates.

(2) *Effective date/applicability date of regulations.* This section applies to plan years beginning on or after January 1, 2010. For plan years beginning before January 1, 2010, plans are permitted to rely on the provisions set forth in this section for purposes of satisfying the requirements of section 430.

(3) *First effective plan year.* For purposes of this section, the first effective plan year for a plan is the first plan year to which section 430 applies to the plan for purposes of determining the minimum required contribution.

(4) *Transition rule for determining at-risk status.* In the case of plan years beginning in 2008, 2009, and 2010, paragraph (b)(1)(i) of this section is applied by substituting the following percentages for “80 percent”—

- (i) 65 percent in the case of 2008;
- (ii) 70 percent in the case of 2009; and
- (iii) 75 percent in the case of 2010.

[T.D. 9467, 74 FR 53058, Oct. 15, 2009]

## § 1.431(c)(6)–1 Mortality tables used to determine current liability.

(a) *Mortality tables used to determine current liability.* The mortality assumptions that apply to a defined benefit plan for the plan year pursuant to section 430(h)(3)(A) and § 1.430(h)(3)–1(a)(2) are used to determine a multiemployer plan's current liability for purposes of applying the rules of section 431(c)(6).

## 26 CFR Ch. I (4–1–10 Edition)

A multiemployer plan is permitted to apply either the static mortality tables used pursuant to § 1.430(h)(3)–1(a)(3) or generational mortality tables used pursuant to § 1.430(h)(3)–1(a)(4) for this purpose. However, for this purpose, a multiemployer plan is not permitted to use substitute mortality tables under § 1.430(h)(3)–2.

(b) *Effective/applicability date.* This section applies for plan years beginning on or after January 1, 2008.

[T.D. 9419, 73 FR 44648, July 31, 2008]

## §§ 1.432–1.435 [Reserved]

## § 1.436–0 Table of contents.

This section contains a listing of the major headings of § 1.436–1.

## § 1.436–1 Limits on benefits and benefit accruals under single employer defined benefit plans.

- (a) General rules.
  - (1) Qualification requirement.
  - (2) Organization of the regulation.
  - (3) Special rules for certain plans.
  - (4) Treatment of plan as of close of prohibited or cessation period.
  - (5) Deemed election to reduce funding balances.
- (b) Limitation on shutdown benefits and other unpredictable contingent event benefits.
  - (1) In general.
  - (2) Exemption if section 436 contribution is made.
  - (3) Rules of application.
  - (4) Prior unpredictable contingent event.
- (c) Limitations on plan amendments increasing liability for benefits.
  - (1) In general.
  - (2) Exemption if section 436 contribution is made.
  - (3) Rules of application regarding pre-existing plan provisions.
  - (4) Exceptions.
  - (5) Rule for determining when an amendment takes effect.
  - (6) Treatment of mergers, consolidations, and transfers of plan assets into a plan. [Reserved]
- (d) Limitations on prohibited payments.
  - (1) AFTAP less than 60 percent.
  - (2) Bankruptcy.
  - (3) Limited payment if AFTAP at least 60 percent but less than 80 percent.
  - (4) Exception for cessation of benefit accruals.
  - (5) Right to delay commencement.
  - (6) Plan alternative for special optional forms.